



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,458	09/10/2003	Otto Gossweiler	024911-00004	2229

7590 08/04/2005

ARENT FOX KINTNER PLOTKIN & KAHN, PLLC  
Suite 400  
1050 Connecticut Avenue, NW  
Washington, DC 20036-5336

EXAMINER

PATEL, NIHIR B

ART UNIT	PAPER NUMBER
----------	--------------

3743

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

8P

**Office Action Summary**

Application No.

10/658,458

Applicant(s)

GOSSWEILER, OTTO

Examiner

Nihir Patel

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on July 26<sup>th</sup>, 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-33 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Pfetzer (US 6,644,352).

Referring to claim 1, Pfetzer discloses a valve that comprises a first valve inlet tube 16 (see figure 1) defining and enclosing a second valve inlet cavity (see figure 1); a second valve inlet tube 18 (see figure 1) defining and enclosing a second valve inlet cavity (see figure 1); a valve outlet tube 14 (see figure 1) defining and enclosing an outlet cavity (see figure 1), the valve outlet tube communicating with the first valve inlet tube and the second valve inlet tube (see figure 1); a flap valve 24 (see figure 1) actuatable between a first position and a second position about an axis of rotation (see figure 1), wherein the second valve inlet cavity and the outlet cavity define a first flow path when the flap valve is in the first position, and the first valve inlet cavity and the outlet cavity define a second flow path when the flap valve is in the second position, and wherein the axis of rotation is located at a first end of the flap valve which is opposite a second end of the flap valve (see figure 1); and an actuator 38 (see figure 1) to actuate the flap valve between the first position and the second position, wherein the actuator is

Art Unit: 3743

selected from a group consisting of a pneumatic actuator and a magnetic actuator (see column 4 lines 39-41).

Referring to claim 2, Pfetzer discloses an apparatus wherein the first valve inlet tube, the second inlet tube and the valve outlet tube are coupled in a Y-shaped configuration (see figure 1).

Referring to claim 3, Pfetzer discloses an apparatus wherein the flap valve sealably closes an opening between the first valve inlet cavity and the outlet cavity when the flap valve is in the first position (see figure 1).

Referring to claim 4, Pfetzer discloses an apparatus wherein the flap valve sealably closes an opening between the second valve inlet cavity and the outlet cavity when the flap valve is in the second position (see figure 1).

*Allowable Subject Matter*

Claims 7 through 33 are allowed.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Nihir Patel whose telephone number is (571) 272-4803. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful the examiner supervisor Henry Bennett can be reached at (571) 272 4791.

NP  
July 27<sup>th</sup>, 2005

  
Henry Bennett  
Supervisory Patent Examiner  
Group 3700